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# ENVIRONMENTAL ASSESSMENT BOARD

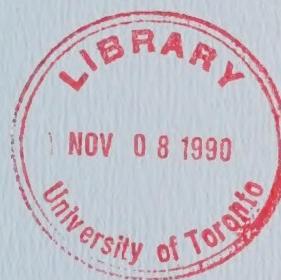
VOLUME: 250

DATE: Thursday, October 25, 1990

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the offices of the Ontario  
Highway Transport Board, Britannica Building,  
151 Bloor Street West, 10th Floor, Toronto,  
Ontario, on Thursday, October 25th, 1990,  
commencing at 9:00 a.m.

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VOLUME 250

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member



(i)

A P P E A R A N C E S

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MR. B. CAMPBELL )	
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MR. D. HUNTER )	NISHNAWBE-ASKI NATION
MS. S. BAIR-MUIRHEAD)	and WINDIGO TRIBAL COUNCIL
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I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>MICHAEL O'CONNOR, Sworn</u>	45027
Direct Examination by Mr. Lindgren	45027
Cross-Examination by Mr. Cassidy	45092
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I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1483	Package of Interrogatories from OFAH Nos. 1 and 2, MNR Nos. 5, 6 and 9 re: Panel 2, FFT.	45027
1484	1:50,000 topographical map of Searchmount depicting ski trails in Algoma District.	45035
1485	MNR Interrogatory Question No. 10D to FFT Panel 2.	45092



1           ---Upon commencing at 9:05 a.m.

2                           MADAM CHAIR: Good morning. Please be  
3 seated.

4                           MR. FREIDIN: Madam Chair, just before we  
5 start --

6                           MADAM CHAIR: Mr. Freidin?

7                           MR. FREIDIN: Yesterday at the scoping of  
8 Dr. Henderson --

9                           MR. LINDGREN: Dr. Ross Henderson.

10                          MR. FREIDIN: Yes. There was some, I  
11 understand, concern about that he was only available at  
12 certain dates in November.

13                          MR. LINDGREN: December.

14                          MR. FREIDIN: Oh, it's December now.

15                          MR. LINDGREN: It always has been  
16 December.

17                          MR. FREIDIN: Do you have the dates that  
18 he's available?

19                          MR. LINDGREN: He is to get back to me,  
20 but the range of dates is between I believe December  
21 4th and December 12th. I will certainly advise the  
22 parties and the Board in advance as to the actual date.

23                          Good morning, Madam Chair and Mr. Martel.  
24 We're prepared to proceed with our testimony relating  
25 to Document No. 7 in Exhibit 1433A and this is the

1 witness statement of Mr. Michael O'Connor. There are  
2 no previous exhibits related to this statement of  
3 evidence, Madam Chair. And before I begin, I would  
4 like to file a package of interrogatories relating to  
5 this witness statement.

6 MR. HUFF: (handed)

7 MADAM CHAIR: Thank you. This will be  
8 Exhibit 1483.

9 MR. LINDGREN: And, Madam Chair, this  
10 package contains Interrogatory Questions from the OFAH  
11 No. 1 and 2 and from the MNR No. 5 and 6 and 9.

12 ---EXHIBIT NO. 1483: Package of Interrogatories from  
13 OFAH Nos. 1 and 2, MNR Nos. 5, 6  
and 9 re: Panel 2, FFT.

14 MR. LINDGREN: Good morning, Mr.  
15 O'Connor. Now, I understand that --

16 MR. FREIDIN: Has the witness been sworn?

17 MR. LINDGREN: Oh, thank you, Mr.  
18 Freidin. Madam Chair, could the witness be sworn,  
19 please.

20 MADAM CHAIR: Yes. Could you approach us  
21 please, Mr. O'Connor. Good morning.

22 THE WITNESS: Good morning.

23 MICHAEL O'CONNOR, Sworn  
24 DIRECT EXAMINATION BY MR. LINDGREN:

25 Q. I understand that you're a resident

1           of Goulay River, Ontario?

2           A. That's right.

3           Q. And where is that located?

4           A. It's about 23 kilometres north of  
5           Sault Ste. Marie.

6           Q. And I understand that when this  
7           witness statement was prepared you were the trails  
8           manager for the Stokely Creek Ski Touring Centre and I  
9           understand that is no longer the case; is that correct?

10          A. That's correct.

11          Q. And what is your present occupation?

12          A. I'm a trails consultant. I'm working  
13          with a group called Nordic International laying out  
14          trails and doing trails proposals right now in  
15          Temagami.

16          Q. And how long were you the trails  
17          manager for the Stokely Creek Centre?

18          A. Ten years.

19          Q. From approximately 1979 to the summer  
20          of 1990.

21          A. Right.

22          Q. Your witness statement also indicates  
23          that you are also a director of the Wildlands League  
24          which is a member of the FFT coalition. I'm wondering  
25          if you can briefly advise the Board as to the aims and

1 objectives of that association?

2                   A. I have been a member of the League  
3 for about 12 years, the Wildlands League. It  
4 originally was a group of people concerned about  
5 wilderness areas within the boundaries of Algonquin  
6 Park. I think it was started probably 15, 20 years ago  
7 by Douglas Pimlott, Bruce Littlejohn, Wayland Drew and  
8 folks like that.

9                   I got involved with the League when I was  
10 living and working in the Lake Superior Park area. I  
11 worked up there doing archaeology and some -- I had  
12 concern about logging operations in Lake Superior Park  
13 and back then there wasn't a lot you could -- a lot of  
14 areas or a lot of people you could talk to outside the  
15 Ministry in that area about logging concerns, and since  
16 I was working with the Ministry it was kind of a  
17 difficult situation to deal with, and so I eventually  
18 quit the Ministry, loved the area up there and decided  
19 to live in the area, stay in the area and bought a  
20 cabin on Superior and did lots of odd jobs, making  
21 trails, timber routes and that, and was constantly  
22 bitching to people about logging concerns and met a few  
23 people canoeing along the coast up there who were  
24 members of the League and suggested that I get involved  
25 with the League.

1                   And so I came down to Toronto to get  
2                   together in Toronto here and sat in on one of their  
3                   first meetings and it was just they were dealing with  
4                   Ministry problems encroaching on parks with logging  
5                   issues and it was kind of a foreign place to be with  
6                   all the jargon that was going around. I had no idea,  
7                   even having worked within the Ministry, you know, it  
8                   was kind -- they were talking about FMAs and hectares  
9                   and this is all new jargon that was coming out, and it  
10                  was like they were running around like everyone else  
11                  stamping out fires trying to deal with all these --  
12                  there wasn't a lot of people doing it, but I figured  
13                  well I might as well get involved with these guys.

14                  I found out -- I just jotted down from  
15                  memory what they stood for, and they were working with  
16                  like-minded groups, the FON, the Canadian Wilderness  
17                  Society and they were instrumental in dealing with and  
18                  protecting a lot of Ontario's wilderness.

19                  And wilderness, the way the League  
20                  interprets it is a place where forces of nature are  
21                  self regulated, where wildlife is protected from roads,  
22                  machines, permanent structures and the extract of  
23                  mineral and timber. And that kind of gives you an idea  
24                  just what the League is about, and felt those were good  
25                  ideals to work for, so I got involved with the League

1 and I have been involved for probably 12 years now.

2 Q. Now, in your evidence a few moments  
3 ago you mentioned that you did some work for the  
4 Ministry at that time, and I wonder if you can indicate  
5 briefly the nature of that work.

6 A. I originally went to Lake Superior  
7 Park doing an archaeological survey with a crew of six  
8 archaeologists and we did a two-year survey of Lake  
9 Superior Park. They were just creating the guidelines  
10 for the park at that point, so we spent two years  
11 compiling information and doing archaeological surveys  
12 and interpreting what we found.

13 Q. Do you still perform that type of  
14 work for the Ministry?

15 A. Yeah, on a contract basis. Actually  
16 it's through private firms now, the Ministry is hiring  
17 firms to do that work now. Since I resigned at  
18 Stokely, I'm now back into the archaeology.

19 Q. Now, in paragraph 2 of your witness  
20 statement we find a brief discussion of the Stokely  
21 Creek Centre and I'm wondering if you could advise the  
22 Board what exactly the centre is and what facilities  
23 and services it offers to the public?

24 A. Stokely -- I'll give you a little  
25 history of it first. It was kind of the brain child of

1       about three or four people, Hakon Lien, who this trail  
2       is named after, the one we're going to be discussing  
3       today, Ed Mantel are two of the locals and Chuck  
4       Peterson an American from the Detroit area began skiing  
5       in the area around King Mountain and they found that it  
6       was just ideal for cross-country skiing, this is back  
7       20 years ago when cross-country skiing was becoming a  
8       very popular recreation thing to do, and they realized  
9       that this area had ideal terrain and lots of snow and  
10      they formed a small club and used actually an old  
11      forest ranger shack cabin for their clubhouse.

12                   And Chuck Peterson purchased the  
13      property, purchased actually all the King Mountain  
14      property, which is several thousands acres, and they  
15      started developing trails on it and they decided to --  
16      the club was getting bigger, they decided to build a  
17      clubhouse and lodge facilities. He was coming up with  
18      friends from the States and they decided to build a  
19      lodge, premises with six rooms in it and a clubhouse  
20      and a dining facility for the club and they created a  
21      non-profit organization and drew up -- the aims of the  
22      club were to promote excellence in cross-country  
23      skiing, that is one of the main aims.

24                   And over I guess a 12-year period that  
25      the club was actually formed they developed -- evolved

1 into actually a major tourist centre now; touring area  
2 and built about six chalets and a day skiers' facility,  
3 a garage for housing the grooming equipment, and we  
4 accommodate now -- they accommodate upwards of 60, 70  
5 people on site and the day skiers' facility handles on  
6 weekends probably 300 or 400 hundred people who come  
7 from the States and stay in Sault Ste. Marie or at the  
8 lodge, plus our club members and just day skiers from  
9 the City to ski the trails. We developed a ski trail  
10 system of 150 kilometres. These are all groomed  
11 trails, tracked with big machines it's a user/pay  
12 system.

13 Q. Are all the trails on Crown land?

14 A. No. I would say about half the  
15 trails are on Crown land, the other half is on the area  
16 which is now referred to as the King Mountain property  
17 and it encompasses a good portion of this. I have  
18 sketched on some of the trails here.

19 The club itself and Mr. Peterson now owns  
20 just about 90 acres now and he sold off this portion  
21 here to a developer who is going to develop King  
22 Mountain as an alpine area.

23 MADAM CHAIR: Excuse me, Mr. O'Connor.

24 THE WITNESS: But we still use the  
25 trails.

1                   MADAM CHAIR: Excuse me. This is not  
2 important to the evidence at all, but we had a  
3 submission when we were in Sault Ste. Marie by the  
4 owner of the hotel we were staying in.

5                   MR. LINDGREN: Mr. Helsinger.

6                   MADAM CHAIR: Mr. Helsinger, and he was  
7 talking about various cross-country ski developments.  
8 Is he involved in this area as well?

9                   THE WITNESS: Yes. A lot of the people  
10 that ski at the lodge stay at his hotel.

11                  MADAM CHAIR: Oh, I see. Okay.

12                  MR. LINDGREN: Q. Now, I understand that  
13 you have marked the location of the ski trails in red  
14 pen on that map?

15                  A. Mm-hmm.

16                  MR. LINDGREN: And, Madam Chair, perhaps  
17 we can mark that as the next exhibit.

18                  MADAM CHAIR: Exhibit 1484.

19                  THE WITNESS: I didn't put on the lodge  
20 actually right now in here. (indicating)

21                  MR. LINDGREN: You have marked that with  
22 a red "x"?

23                  THE WITNESS: Right.

24                  MR. LINDGREN: And, Madam Chair, that  
25 exhibit is a 1:50,000 topographical map of Searchmount

1           in the Algoma District.

2        ---EXHIBIT NO. 1484: 1:50,000 topographical map of  
3           Searchmount depicting ski trails  
          in Algoma District.

4           MR. LINDGREN: And, Madam Chair, the  
5           exhibit number was...?

6           MADAM CHAIR: 1484.

7           MR. LINDGREN: Thank you.

8           Q. Does the centre hold any special  
9           events or activities on its courses?

10           A. Yeah. We have a number of skiing  
11           events, starting -- the first one is generally before  
12           Christmas and that is to emphasize the early snow. We  
13           generally have a race, an international race which  
14           draws people from the States and from all across  
15           Canada, we get ski teams. It's a race that's  
16           sanctioned by the Canadian Ski Association and that is  
17           one of the first races we have.

18           Then we have through the winter several  
19           small loppetts, these are just touring events and they  
20           utilize the Algoma Central Railroad. We take maybe 30,  
21           40 people and they get on the train at Sault Ste. Marie  
22           and we go north on the ACR in this area here called  
23           Wabos, it's a little whistle-stop, and then ski across  
24           this trail system over to the lodge.

25           This is not a groomed trail, it's brushed

1 out and signed and everything. Actually our tracked  
2 trails are about here, so it's kind of a wilderness  
3 ski.

4 Q. Can I ask you --

5 A. Sorry.

6 Q. Go ahead.

7 A. And that's another -- there's about  
8 four of those events, and then there's a major tour  
9 with the same idea but we hire a whole train, we rent a  
10 train, several cars, and upwards to 400 to 500 people  
11 ski the same course and it's like a celebration of  
12 winter and they all ski back to the lodge, there is  
13 several stops along the way.

14 And the final race is, we're starting a  
15 new international race for classic skiing. There is  
16 two techniques involved now in cross-country skiing,  
17 there is skating technique and then there's the  
18 classical and skating is relatively new; classical is  
19 the old diagonal stride, and some of the club members  
20 in our club, the older members, are more traditional  
21 and they want to maintain the traditional means of  
22 getting around on skis, so they decided to have this  
23 50-kilometre diagonal stride course and we laid that  
24 out, and that's another -- that's an international  
25 drawing card too.

1                   Q. I would like to ask you a few brief  
2       questions arising out of that testimony. Is there any  
3       road access to the lodge itself?

4                   A. In the summer there is, but in the  
5       winter time guests arrive, park in parking lot, they  
6       ski half a kilometre into the lodge, so there's no --  
7       we try to keep away from motorized vehicles, it keeps  
8       the snow clean and keeps the air pure.

9                   Cross-country skiers are very health  
10      conscious people and it's a very pristine wilderness  
11      setting these trails and we try to keep it that way.

12                  Q. And how many skiers make use of this  
13      facility every year?

14                  A. I would say skier days would be maybe  
15      four or 5,000.

16                  Q. Okay.

17                  A. We also have, like in the off season  
18      it's evolving into other uses; we hold workshops there,  
19      photography workshops, art workshops, environmental  
20      workshops and bicycle -- mountain biking has become  
21      quite popular on the trails, hiking, and quite a number  
22      of other, you know, during the off season.

23                  Q. And do any of the special events or  
24      activities that you've described occur on the portion  
25      of the trail that you've photographed and have

1 described in your witness statement?

2 A. Yeah. The four winter tours go  
3 through that area. Initially that trail system, the  
4 Hakon Lien trail was kind of -- it was designed --  
5 Hakon Lien and Chuck Peterson are two what we call  
6 bushwhackers, they like getting back and doing back  
7 country skiing, wilderness skiers, and the groomed  
8 trails they have kind of stayed off, so they're always  
9 exploring other areas, they're always making new trails  
10 and they really enjoy it, and it's a great area to  
11 explore and they laid out a trail system through this  
12 area.

13 Q. And you have marked that with a  
14 broken red line.

15 A. Right. And this was the area in  
16 question, the Hakon Lien trail. They laid out the  
17 trail and we decided to name it after Hakon Lien  
18 because he's kind of one of the founders of the club.

19 Q. Can I refer you to the interrogatory  
20 package which has been marked as Exhibit 1483. Could I  
21 ask you to turn to MNR Question No. 5. And attached to  
22 Interrogatory No. 5 is a letter dated January 11th,  
23 1985 to yourself from Mr. Sellers who is the district  
24 manager in Sault Ste. Marie District. You received  
25 this letter?

1                   A. Mm-hmm.

2                   Q. Is that yes?

3                   A. Yes.

4                   Q. And in the text of this letter there  
5                   is a discussion of the need to realign that portion of  
6                   the ski trail, and can you explain to the Board why  
7                   that was necessary?

8                   A. Yeah. Actually I was instrumental in  
9                   getting that changed. Like, at that point we really  
10                  haven't -- this was the bottleneck that developed, up  
11                  to that point it was a back country trail, it wasn't  
12                  groomed or we hadn't even signed it, we were just  
13                  skiing it, it was on maps that we handed out to people  
14                  that were good skiers, and so we decided we better, you  
15                  know, this was going to be a popular trail, lots of  
16                  people were wanting to ski it and we had to sign it and  
17                  include it in our trail system.

18                  So I approached the Ministry about  
19                  putting in this trail. We had searched -- this was the  
20                  problem area here (indicating), it's probably the  
21                  steepest portion. This is all King Mountain, this is  
22                  one of the highest points in Ontario. At the backside  
23                  of King Mountain on the northeast side of the slopes  
24                  are kind of -- it's all kind of terraced and the reason  
25                  this area was never logged there was just about a

1       quarter section here that was never logged, and the  
2       reason it was never logged it was quite steep, it was  
3       quite - this is just my - I think it was never logged  
4       because of this, and there was never a road through  
5       this. There was a road up -- there is an old logging  
6       road up to this point, and a logging road up to this  
7       point, but the area inbetween was just steep and all  
8       side hill.

9                   And after exploring I found that there  
10       was an old road that had grown up with young maple and  
11       yellow birch, quite thick, and you can pick out an old  
12       roadbed because of, you know, if you know what you're  
13       looking for, even in an area that's been cut-over, you  
14       can tell, yellow birch seems to really take off on a  
15       roadbed like that. So I was able to figure out where  
16       that trail went, and then it cut across this side of  
17       Bone Lake ended there and ended here.

18                  So I walked back and forth the contours  
19       on the side of the mountain and figured out a good  
20       place to lay out -- just a back country trail, a  
21       touring trail. We actually couldn't groom it because  
22       it was too steep to groom, and then went to the --  
23       there's a cottage or cabin owners on this lake, there  
24       is three cabin owners, it's kind of a remote area --

25                  MR. FREIDIN: Which lake?

1                   THE WITNESS: Bone Lake. You can't drive  
2                   into it, you can only drive to this point, and the  
3                   cabin owners have a little portage trail over to Bone  
4                   Lake.

5                   It's a beautiful area, it's all mature  
6                   hardwood stands, it's like -- I call it the northern  
7                   rain forests, it's a beautiful area. And there's a  
8                   water falls along this trail, it's just -- when I  
9                   discovered it I thought I was in heaven, it's just a  
10                  gorgeous spot, and I thought it would be a great place  
11                  take skiers on the side of this thing and you couldn't  
12                  take them on this portage trail because it went down  
13                  too steep and down too steep, you couldn't ski it.

14                  So I flagged an area along here that  
15                  would be difficult to ski, if it was a groomed trail,  
16                  like a fast trail, but in deep snow it would be ideal  
17                  to ski. You would have to be a good back country skier  
18                  to ski it, but flagged a trail, talked to the owners of  
19                  these cabins and asked them if they mind if we opened  
20                  up this trail and they had no objection to it.

21                  Their concerns were if we make another  
22                  access point though to the lake, see the lake was  
23                  already over fished, the Ministry will agree to that,  
24                  the first couple of weekends that this lake was over  
25                  fishing. The access point is down here off this

1 Robinson Lake Road and goes up and hits about the  
2 middle of Bone Lake, you can go back there on a busy  
3 weekend and see maybe 30, 40 snow machines on the lake,  
4 and it's starting to drop off because fishing has  
5 dropped off, there's too much pressure. So those were  
6 the concerns of those people in there.

7 I went to the Ministry, the lands people,  
8 Peter Birch and talked to him about it, about putting  
9 the trail in, and we went out and walked the area and  
10 they agreed that this new location should be where the  
11 trail goes. And we thought about, you know, the  
12 possibilities of hiding the access to it because you  
13 really can't put a gate on this, the company's  
14 opened -- it's Crown land, it's open own for everybody  
15 to use, but I've experienced in the past when you open  
16 up a new trail that's close to another access point, it  
17 makes another access point to our trails having a snow  
18 machine run on it -- once one runs on it, it's almost  
19 like it opens up an avenue for someone else to come  
20 along, follow those tracks up and end up on the trail  
21 system.

22 It's an easier way into Bone Lake, the  
23 other way is quite rough and you get -- if it's a busy  
24 weekend and you have a lot of snow machines running in  
25 there the trail gets all bumpy and humpy and if they

1 find a nicely groomed ski trail they will run it.

2 So we were concerned about hiding the  
3 trail, both they and I were concerned about hiding it,  
4 so we just marked on the map, but then problems started  
5 to occur, you know, a few people found the trail and  
6 rather than putting a sign up that says, no  
7 snowmobiles, which I found out, they don't last anyway,  
8 they get ripped down or blasted, I put up just a skier  
9 symbol sign and it seemed to help a bit.

10 Q. And perhaps on that point I can refer  
11 you to OFAH Question No. 1 on the front page of the  
12 interrogatory package, and you make reference in  
13 Question No. 2 -- or your answer to Question No. 2  
14 about the issue of unauthorized motorized use of the  
15 trail. Then continuing on to the next page, paragraph  
16 4, you discuss the issue of posting the trail.

17 And can you briefly describe what the  
18 Centre's experience has been with respect to different  
19 signs on the trails?

20 A. We found that, you know, on lakes  
21 where our trails went across lakes and went back, you  
22 know, into the bush again, where there might be  
23 conflicts with snowmobiles in the winter, we decided  
24 rather than put up no snowmobile signs, like that's  
25 just a sign with a snowmobile on it with a slash

1 through it and a circle, those become good targets, we  
2 just put skier symbol signs and, you know, occasionally  
3 you still get people running down and checking out the  
4 lake. Our trails from kind of lake to lake and we  
5 tried to recently stay away from lakes because it's  
6 inviting snowmobiles on the trail.

7                   But skiers like to get out on the lakes  
8 too, they can ski through the bush and on beautiful  
9 days a lake is a great place ski. So we also get them  
10 out on the lakes.

11                  But getting back to the signs, the  
12 snowmobiles are one problem and it's not just the fact  
13 that they will ruin the trail when they get on the  
14 trail, like they'll -- when we groom a trail there are  
15 tracks for diagonal skiers, they will wipe those tracks  
16 out and it's costly to groom these trails, you know,  
17 put these tracks in, when you have to redo it, it  
18 amounts to a lot of money but it's also a safety  
19 problem too.

20                  If a skier comes whipping down the little  
21 and there's a snowmobile coming up it, there can be  
22 some problems there as you can imagine, and also in a  
23 remote trail like this, and we experienced this several  
24 times, occasionally you get a snowmobiler coming  
25 from -- decided to go up and check this out and word

1       got out there was a trail here after a while, and  
2       snowmobiles would go up and access the lake, and then  
3       run up and down it both ways, and then come back down  
4       and go across Robinson Lake and a skier would get back  
5       there and they'd get lost because they didn't know what  
6       was snowmobile trail any more and what was the ski  
7       trail.

8                   We had people end up skiing this and then  
9       walking portions of this and just, you know, coming  
10      back to the lodge after dark dammed near frozen because  
11      of the snowmobile running on the trail.

12                  Q. May I refer you back to MNR Question  
13      No. 5. I would like to discuss the land use permit  
14      that is attached to that question briefly with you.  
15      Now, I take it that you filled out this application for  
16      a land use permit?

17                  A. Mm-hmm.

18                  Q. I would like to refer you to term No.  
19      3 which reads:

20                    "It is understood that from time to time  
21      logging may occur in some areas and  
22      relocation of trail may be required."

23                  And term No. 8:

24                    "The following users shall not be  
25      interfered with subject to their use

1                   being compatible with the authority  
2                   contained in this permit."

3                   And it reads:

4                   "Licenced trappers, prospectors, timber  
5                   operators and Ministry of Natural  
6                   Resources staff on duty."

7                   And can you briefly describe your  
8                   understanding of those conditions?

9                   A. Okay. Would you read out No. 3 again  
10                  and I'll address that first.

11                  Q. "It is understood that from time to  
12                  time logging may occur in some areas and  
13                  relocation of the trail may be required."

14                  A. Okay, yeah. I was quite -- you know,  
15                  I knew that these were the terms before I even went  
16                  into get the land use permit and I made the club aware  
17                  of that. Our club -- a lot of them aren't familiar  
18                  with the rules and regulations involved in Crown land,  
19                  so they understood that, you know, from time to time  
20                  there would be logging in these areas.

21                  And as far as the other users, like  
22                  trappers for instance, I knew that could be a problem  
23                  because trappers have the right to travel anywhere on  
24                  Crown land and this was an ideal situation to have all  
25                  these trails all through that whole country.

1                   So I checked into, when we signed this  
2 land use permit, who the trapper was and I found out  
3 that no one had trapped it for a couple of years and I  
4 thought it was an opportune time for me to -- I had  
5 always been interested in trapping and never really  
6 thought I could do it because I have a great respect  
7 for wildlife, but I decided that maybe it would be a  
8 good way to cut down one of the conflicts, possible  
9 conflicts would be to be the trapper myself, so -- and  
10 I wanted to find out more about it anyways, so I took  
11 the course in trapping and became a trapper for the  
12 area.

13                  And it wasn't difficult -- I would like  
14 to make that point, or it wasn't easy to do this,  
15 because I was known at the Ministry as an  
16 environmentalist and somewhat of a shit disturber  
17 regarding a lot of logging issues and that and I'm a  
18 herder and a naturalist.

19                  So when I went to get the trapper's  
20 permit after I took the course I found out that it just  
21 wasn't -- the fact that, you know, the whole idea of  
22 taking the course was to try and cut down the conflict,  
23 so there wouldn't be any problems with the trapper and  
24 the trails. I figured I could groom the trails and  
25 trap at the same time because I know the wildlife

1 there, I know where all the beaver colonies are and I  
2 know what kind of, in trapper's terms, what kind of fur  
3 is on the land and there's not an overabundance of it,  
4 and I thought from the standpoint of getting the  
5 trapper's licence I could actually -- people like to  
6 see animals, even if they don't see them, they like to  
7 see the tracks and that's it.

8 Q. I was going to ask you if you  
9 suggested any additional terms and conditions to this  
10 land use permit?

11 A. I'm going to get to that, but anyway,  
12 I took the course, went in to get the permit and I  
13 found out that I had to have a hunting licence in order  
14 to be a trapper, and I just really couldn't understand  
15 why I would have to have -- I mean, you're not allowed  
16 to shoot these animals, you're supposed to trap them,  
17 but it was pointed out that, you know, in the  
18 guidelines that you have to have a trapper's licence --  
19 or a hunting licence, so I had to quit hunting 15 years  
20 ago because I just don't agree with it, I think it's  
21 just a bit bunch of yahoos out there, and I don't want  
22 to be even -- I won't go on with that.

23 Anyway, I had to go and find an old  
24 licence and I found an old licence and I was able to  
25 get my -- I took a course, I had to take a course

1 because I wasn't enough to have a licence. Finally it  
2 come down to a decision of the Ministry staff and I  
3 think there was three, four and three against me  
4 getting this trap line and there was someone called  
5 into discuss -- the tie breaker, unfortunately it was  
6 someone from the fisheries, a biologist that I had been  
7 talking to about concerns on Stokely Creek about  
8 fisheries concerns on it and he voted for me and I got  
9 my trapper's licence.

10 So I trapped it for the last four years  
11 and I don't trap heavy, I trap only the beaver that  
12 should be taken and that's all I trap is beaver. And I  
13 have left the long fur and the otter and that to --  
14 there's not an over abundance of this, so it's nice to  
15 see -- just nice to see the tracks.

16 And getting back to the other --

17 Q. You had suggested another term and  
18 condition to this land use permit?

19 A. Yeah. I suggested after, you know,  
20 there are eight or nine items I added one about rather  
21 than just sign the thing and send it in I thought, you  
22 know, trails should have -- these ski trails are very  
23 important and there as important I think as the logging  
24 in the area, as the timber in the area, and I suggested  
25 it would be -- I think it was -- I just added a tenth

1 point or a ninth point that they should consider this  
2 and contact us if they're going to log I think, I think  
3 that's what I put in. It was deleted and I had to redo  
4 another application form and sign it and send it in.

5 Q. So you had suggested a condition that  
6 would have required notification--

7 A. Right.

8 Q. --if logging was to occur in the area  
9 of the ski trail?

10 A. Mm-hmm.

11 Q. But that suggested term didn't find  
12 its way into the land use permit that was issued for  
13 the Creek?

14 A. Uh-huh.

15 Q. And are the land use permits issued  
16 every year?

17 A. Yes, they are.

18 Q. In paragraph 5 of your witness  
19 statement you indicate that is when you first became  
20 aware of the possibility of harvest in the area of the  
21 ski trail, and can you briefly describe how you became  
22 aware of the potential harvest or the imminent harvest?

23 A. We had skiers skiing that trail and  
24 it was the first year we had actually had the land use  
25 permit for it, we skied it other years just

1 bushwhacking, but this is -- we now had a land use  
2 permit for it and it was on our trail system we were  
3 handing out maps that showed this trail and skiers were  
4 coming back and complaining about the condition of the  
5 trail. We knew it was a rough trail. But they're  
6 talking about snowmobiles running on it and snowshoe  
7 tracks, and I can understand why some of them would  
8 want to go back there on snowshoes. So I went back and  
9 checked it out and it turns out that the Ministry had  
10 been in marking trees to cut them, they were  
11 considering cutting that area.

12                   So I called the Ministry about it and  
13 asked what they were doing. I thought it would have  
14 been just a natural thing to do is to let us know that  
15 they are going to be out there, they just refer to the  
16 land use permit, they didn't have to notify us, and  
17 that they were scheduling this area for cut in the next  
18 couple of years.

19                   So from that I contacted -- or at a club  
20 meeting, the next club meeting I made the club aware  
21 that the area was going to be logged and that we should  
22 approach the Ministry first to try to get them not to  
23 log it, you know, we had already signed the thing and I  
24 thought, you know, from the standpoint if we went to  
25 them as a group, some of the directors from the club,

1 and explained our concerns, the fact that we just now  
2 opened up the trail, it's going to be a good trail,  
3 that maybe, you know, they could hold off, it was just  
4 a small section of trees. And their reaction to that,  
5 we had a meeting with the district manager and his  
6 reaction was that it was to be logged but they would be  
7 very sensitive about the way it would be logged, it  
8 wouldn't be logged in winter.

9 Q. It would or would not?

10 A. It wouldn't be logged. Like, we  
11 explained that we had several loppetts on it now and it  
12 was becoming a very popular trail and it would just  
13 be -- it would really mess up our whole winter schedule  
14 if we had to reroute people on another trail.

15 We also -- we knew that, you know,  
16 logging roads sometimes -- you know, a good portion of  
17 our trails are on old logging roads, but these are very  
18 old logging roads when they used horses and they had a  
19 lot more respect for the land, so the roads are laid  
20 out in nice contours and really kind of correspond with  
21 what skiers want to ski as far as trail layout.

22 Anyway, with this meeting with the  
23 district manager it was decided that they would log it  
24 in the off season and that they would be very sensitive  
25 to our concerns, and our concerns -- we tried to get a

1 right-of-way and that wasn't possible because it was  
2 such a small area, it was a stand improvement, they  
3 weren't going to clear cut, they were just going to  
4 take out the overmature trees and --

5 Q. What type of trees had been marked  
6 for harvest?

7 A. These are hardwood trees,  
8 predominantly maple, some yellow birch but mostly  
9 maple. The whole idea was a stand improvement cut, it  
10 wasn't going to be a very messy operation and that they  
11 would make sure whoever got the contract would be made  
12 aware of our concerns and be very sensitive to it and  
13 they were going to pick a very good logging operator to  
14 do this work.

15 Q. Now --

16 A. And that we would be involved, we  
17 would get to meet the guy, the successful bidder and  
18 have a go look at these stands and discuss our trail  
19 concerns with him.

20 Q. And in fact at the top of page 3 of  
21 your witness statement you indicate that you did meet  
22 in the field with the MNR and a later appointed the  
23 logging contractor.

24 MR. LINDGREN: Now, this is discussed,  
25 Madam Chair, in MNR Question No. 6B.

1                   Q. And perhaps you can describe for the  
2     Board briefly what occurred during the initial meeting  
3     with the MNR in the field in 1987?

4                   A. Okay. We met with the district  
5     manager and there was one of the members of our board  
6     was there, Lee Fletcher who is a trained forester,  
7     retired but had worked for Abitibi and was quite  
8     familiar with logging operations, Lee came with me and  
9     also accompanying us that day was Frank Rush who was in  
10    the area, this was at the time when the King Mountain  
11    development was on the verge of becoming a reality.  
12    This is \$30-million project matched by government  
13    funding, probably I think it was a \$60-million project  
14    to develop the King Mountain area for a four seasons  
15    year-round tourist operation.

16                  And since Frank Rush was in the area I  
17    thought it was an opportune time for the Ministry to  
18    meet this man. I was going to this site and I thought  
19    it would be good for these two people to meet, and  
20    Frank Rush's property, the King Mountain property,  
21    abuts this proposed logging area and I introduced the  
22    district manager to Frank Rush and he just -- he didn't  
23    want to talk to him, he felt that he didn't have any  
24    part to play in this discussion and he was asked to  
25    leave.

1                   So we walked through the site -- and I  
2        was very disturbed about this whole thing I thought,  
3        God, here's a guy -- you know, they're investing a lot  
4        of money into this area and this is a very integral  
5        part of their whole operation, you know, it's right  
6        next door, all this what was pristine beauty in the  
7        backyard is about to get logged and I thought he might  
8        have something to say about it and should be heard.

9                   Anyway we went through and looked at the  
10      area and walked our trail alignment which was at that  
11      point just flagged and still very hidden from view and  
12      that was the end of that meeting.

13                  Then there was a follow-up meeting with  
14      the actual -- the guy who got the licence to log it and  
15      a timber technician and myself went out and walked the  
16      area, looked at the trails. I told him my concerns and  
17      the end result of that meeting was we were to -- he got  
18      started in the fall, we were to get together, he was to  
19      call me to let me know when he was going to start.

20                  Q. And this is the logging contactor?

21                  A. Right. And I would work closely with  
22      him. I walked the trail with him and showed him, you  
23      know, where our trail was and if they -- I knew this  
24      was now going to be -- it was going to open up the  
25      country, there was going to be a logging road in there,

1 it was on, it was probably the flattest piece of land  
2 through that area for him to access the bush for his  
3 tote road down to his landing, so -- and that was the  
4 area that he was going to use to haul logs down through  
5 and he could bulldoze it out and level it. So it was  
6 now no longer going to be just a back country trail, it  
7 was going to be a wide open trail.

8                   And it kind of made me wonder, why did we  
9 take all this -- why were we so concerned, why was the  
10 Ministry so concerned about the access to the lake and  
11 now they're opening it wide up, and it's wide open now.  
12 But there was no -- and we discussed that, this was --  
13 the area had to be logged, it was a stand improvement  
14 cut. I thought, well I might as well work with these  
15 people because we may end up -- it's a good kind of  
16 sample of what is to come, because the other areas we  
17 have -- this system here, the Wabos over to Bowjack and  
18 Bone Lake is going to be logged in the next five years.

19                   And at that point I didn't know that that  
20 was going to be logged, but I knew it was going to be  
21 logged sooner or later and it is going to be logged in  
22 the next five years and I talked to -- gone into the  
23 open house and talked to the Ministry about it and  
24 talked to our club bit.

25                   I'm no longer, by the way, the manager of

1           Stokely but I am still involved in the club. I have a  
2       lifetime membership. When I left the club I asked to  
3       be involved with the club because I'm very concerned  
4       about the area back there. I got very attached to the  
5       area, it's a beautiful area and I think it deserves a  
6       lot more respect than it's getting.

7           Q. Now, in the fall of 1987, did you  
8       receive any notice from the contractor that the  
9       operations were about to commence?

10          A. No, I did not.

11          Q. Then how did you discover that  
12       operations were in fact underway?

13          A. I was back there canoeing on Bone  
14       Lake, I was checking out my new trap line, I was now  
15       the trapper in that area and checking -- out looking  
16       for beaver houses on the lake and I heard chain saws  
17       and skidders working in the area. So I went over and  
18       investigated and I was shocked at what I saw.

19          Q. And can you describe briefly what you  
20       did see?

21          A. We had had just a tremendous amount  
22       of rain, September is a rainy season in that area and  
23       we get almost daily rain and he had already commenced  
24       operations and had been in there, it looked like  
25       probably for a week and a half, probably two weeks, and

1 there was just mud everywhere and there was a sea of  
2 mud in the landing area, I have never seen such a mess,  
3 and the logger -- the skidders were hauling logs  
4 directly down the hill.

5                   There's a very steep slope, there's  
6 contours - I don't know if you can see them on here -  
7 these intervals are of 50 feet, they're very close  
8 together here, and instead of -- there was an old  
9 section of a logging road in there - after the fact I  
10 discovered this - that they could have probably gone up  
11 the side of the mountain and it was kind of a lot more  
12 stable than what they did. Instead of going up that  
13 way, they were just going directly up the hill in  
14 various spots along their landing area and hauling back  
15 down to the landing area with these big mature maples  
16 and when they dragged them down - these are powerful  
17 machines, it's just amazing what they can do - and they  
18 were effectively making ditches down the side of the  
19 mountain in which all this rain and mud, actually  
20 topsoil, was flowing down into the landing area and  
21 they were working in a seas of mud and they were  
22 just --

23                   I approached him and I said -- and I was  
24 overwhelmed, I had to sit and think about, Jesus, how  
25 am I going to handle this, you know, I was supposed to

1 work with this guy and I don't want to be  
2 confrontational and I thought this was going to be a  
3 good exercise with the Ministry and I really like this  
4 area, it's a beautiful area.

5 Q. Did you contact the Ministry about  
6 your observations?

7 A. Yeah, I did.

8 Q. And what was their reply?

9 A. Hmm. I called up and I said: Has  
10 anybody been out to this site to see what's going on  
11 and I explained, you know, what I had seen and, you  
12 know, I thought maybe I was overreacting to the whole  
13 thing, it was just when you get -- when you work on a  
14 trail system like this, I'm very very -- I've taken an  
15 approach, when I took the trapper's course it was a  
16 very tough thing for me to do to go out and kill  
17 animals because I really don't agree with the whole  
18 trapping thing, you know, I think they are there for  
19 the people to see, but in order to get involved and  
20 want to understand the whole thing I took the course  
21 and in order to kill an animal - and this is the same  
22 thing I think people should have to think about when  
23 they're cutting trees - I took the course and I wasn't  
24 quite prepared to go out and start killing animals, and  
25 studied the humane way to trap animals, and I wanted to

1 learn more about it. So I went to a lady who had been  
2 trapping all her life, Jeanie Canouts of Ranger Lake  
3 Road and I worked with her. I got her to actually work  
4 with me on the trap line, and one of the first things  
5 she taught me, she had me go and snare some rabbits and  
6 I went out and set a couple of snares, there's lots of  
7 rabbits running around, and I checked the snares the  
8 next day and there was a rabbit in one of them and it  
9 had just got in the snare, probably scared into the  
10 snare when I was skiing through. So it was caught,  
11 still alive, okay, this is what she meant, this is  
12 what -- I've got to kill this animal, it's alive. I  
13 either let it go, if I let it go I'm not going to be a  
14 trapper, I have got to kill this animal. And rabbits  
15 are a hard thing to kill, you know, it's okay if you're  
16 shooting them, blasting them away with a shotgun, but  
17 when you have them in your hands you can either let  
18 them go or kill them. It's very a difficult thing to  
19 do.

20 So I thought about -- and I use this a  
21 lot, and I think it's something that people in the  
22 Ministry and logging operations and that should think  
23 about. I approach it from the native standpoint, they  
24 have respect for everything, everything has a spirit to  
25 it and here's this rabbit looking at me expecting me to

1 let it go and I'm feeling that; if I don't kill it,  
2 it's forget about trapping. So I kill the animal as  
3 quickly as I could, which she showed me how to do it,  
4 but I did it with respect. Like, I thought about the  
5 native approach and it was like you try to appease the  
6 spirit of that animal. I'm not saying that all loggers  
7 should be doing this, but I think they should think  
8 about it before they go into an area.

9 Now, I've had guys working my trail crew  
10 who are trained how to cut brush and showed them  
11 respect, you know, you don't cut everything you think  
12 about what you're cutting. There is trees growing up  
13 along our trail that will look beautiful and be part of  
14 the whole environment, just don't go back there and  
15 slash it all down and there's been lots of pressure  
16 from our club members because it's a costly thing to  
17 do, to go and groom these trails every year, there's  
18 150 kilometres of trail and a lot of it's done by  
19 volunteers and there has been lots of pressure to just,  
20 geez, why don't we just spray these things and it's  
21 just, you can't do that.

22 This is an area that is -- I like to keep  
23 it pristine. I always approach things from a  
24 wilderness standpoint. I like -- I'm an idealist, I  
25 think that's the way it should be in the bush. I

1 always try to make it as you just don't go destroying  
2 things, and it's the same thing with the rabbit.

3 Q. So you indicated that you contacted  
4 the MNR and I was wondering what the MNR reply was.

5 A. Yes. I was off on a tangent there.  
6 I contacted the MNR and asked them to come have a look  
7 at it because I thought they were destroying the side  
8 of the mountain, and the response I got was - and this  
9 shocked me - the timber technician said: We just can't  
10 drop everything and go out there, we're busy here and  
11 we're short staffed and we just can't go out there and  
12 look at it. And I just couldn't believe that, you  
13 know, goddamn it, this guy -- it's a total reversal of  
14 what we were going to do here, the logger went in  
15 without contacting me, I talked to him about it  
16 afterwards and he said that he tried to get ahold of me  
17 but just gave up getting ahold of me, and that's -- you  
18 know, he could have called the lodge, they've got an  
19 answering service at the lodge, he could have called my  
20 home. Anyway, the situation was no one really seemed  
21 to care at that point.

22 Q. And so --

23 A. So I got ahold of the League, the  
24 Wildlands League and I said, you know, I'm in a really  
25 interesting situation up here and explained the whole

1       thing and I went out and photographed what was going  
2       on. I should have had a camera, I wish I had had a  
3       video camera because it's a lot more effective and I  
4       think you could have seen what was happening.

5                   Q. And Mr. O'Connor, perhaps you can go  
6       to the map marked as Exhibit 1484 and can you circle  
7       the approximate area where you were taking photographs?

8                   A. It's this area right here.

9                   Q. And perhaps we could look at your  
10      photographs.

11                  MR. LINDGREN: Madam Chair, I should  
12       indicate that these slides have been filed in Appendix  
13       D of the binder of photographs. I should point out  
14       that the first three photographs are not in the  
15       package, but I will file hard copies with the Board  
16       and with the parties.

17                  Q. And for each photograph, Mr.  
18       O'Connor, can you describe what we're seeing?

19                  A. Okay. This is --

20                  MADAM CHAIR: Excuse me, Mr. Lindgren.  
21       Does this mean there are 24 photos instead of 21. We  
22       have got 21 in our book right now.

23                  MR. LINDGREN: There's actually two sets  
24       of photographs in the book, there's an original set  
25       filed with the Board and it contains 12 photographs.

1                   MADAM CHAIR: Right.

2                   MR. LINDGREN: And then Mr. O'Connor has  
3 last week taken some additional photographs and there  
4 are 21 in number, and they have been included in your  
5 binder as well.

6                   MADAM CHAIR: Okay, thank you.

7                   MR. LINDGREN: And the first three that  
8 we are looking at right now are not in the binder, but  
9 I will provide hard copies to the Board and to the  
10 parties.

11                  MR. CASSIDY: Mr. Lindgren, could you  
12 just confirm for me that it was Mr. O'Connor who took  
13 the first 12 plus three you are now going to show us.

14                  MR. LINDGREN: Q. Is that correct, Mr.  
15 O'Connor?

16                  A. That's right. Okay. This is the  
17 main lodge clubhouse. This is more or less the trail  
18 at the head of our trail system. The clubhouse is in  
19 this building, this is a dining lounge with six rooms  
20 upstairs and there's a recreation area downstairs,  
21 saunas and everything.

22                  And this is a trail system, this is a  
23 skating trail. Skating has evolved into a new  
24 technique, it's like ice skating only you skate on  
25 skis. So you groom for that now, it's a very popular

1       thing, and we also groom tracks for skiing, that's  
2       diagonal stride tracks.

3                   And this area around the lodge right from  
4       the lodge -- actually right from the parking lot out  
5       onto the whole trail system this is some pretty  
6       pristine area. Over here is Stokely Creek there's a  
7       water falls here, the lodge and trail system and all is  
8       named after that creek. Next slide.

9                   This is out in front of the clubhouse.  
10      These are some of the club members, ski instructors and  
11      racing team. These skiers go ski in international  
12      events and they kind of advertises our track system and  
13      they also teach.

14                  We have ski programs for the local  
15      schools, the Mountainview School which is right close  
16      to Stokely Creek lodge. My wife and I introduced a ski  
17      program which gets the kids -- each class outdoors once  
18      a week, and included in that now we're doing an  
19      environmental course teaching kids about -- I've got a  
20      beaver colony that's quite close to the operations here  
21      on Stokely Creek and the kids can actually go and visit  
22      a beaver colony and see how a beaver habitat is part of  
23      the ecosystem and explain it to them.

24                  Next slide. This is on the way in from  
25      the parking lot and this is our day skiers facility, we

1 just add on -- this is old log cabin here and we added  
2 on this system here. We now have for day skiers indoor  
3 toilets and a shower in that area. We built this new  
4 chalet here. This is one of our grooming machines  
5 there is two of these large tracked vehicles used for  
6 grooming the trails. You need a place -- a rather big  
7 garage for this equipment. And this trail system comes  
8 from the parking lot into the lodge and then everything  
9 kind of fans out from there.

10 This is kind of what the area looked like  
11 before the logging operation. This is back over on the  
12 Wabos trail, it kind of gives you an idea what a  
13 hardwood forest looks like undisturbed and there's some  
14 kind of -- I guess Ministry would refer to them as  
15 overmature maple in there, and I have skied through  
16 this area with foresters from Great Lakes Forest  
17 Research, they are club members, and talked to them  
18 about it, you know, should this be logged. And they  
19 say, yeah, it should be logged. You know, explained it  
20 to me how it should be logged, and it made sense that  
21 it should be logged, you know, because it would  
22 actually improve that. But just when I -- and this  
23 fellow knows about this old cut that was done over on  
24 the Hakon Lien trail and he agrees that, you know, it's  
25 a problem: How are we going to log this area and do it

1 sensibly without destroying, you know, our ski trails  
2 through it, because our trails...

3                   When you come to a hardwood stand like  
4 this, we've marked trees with red markers to try and  
5 keep people on the trail, but when they get into a  
6 hardwood stand that's wide open like this, there's all  
7 kinds of places you can ski in; there's hills and  
8 there's stumps and there's five feet of snow in these  
9 areas, five, six feet of snow in these areas and so  
10 people want to ski it, they want to not just stay on  
11 the trail they want to get all through there.

12                  So that's hard to get across to the  
13 Ministry that: What are you going to do with a spot  
14 like that. You can't just tie up the whole country, it  
15 gets...

16                  MR. FREIDIN: Madam Chair, I think those  
17 photographs were all separate. This is the beginning  
18 of the series of 12, the first series of 12 I think.

19                  MR. LINDGREN: That's correct. This is  
20 photograph No. 1 in the first package of photographs.

21                  MR. FREIDIN: Should we make the list an  
22 exhibit?

23                  MR. LINDGREN: Well, it's already  
24 included with the package that has been filed with the  
25 Board.

1                   MR. FREIDIN: Oh all right.

2                   MR. LINDGREN: It's in the exhibit.

3                   MADAM CHAIR: Why don't you just call out  
4                   the photograph numbers now as you did with the first  
5                   ones.

6                   MR. LINDGREN: Q. I will. This is  
7                   photograph No. 1.

8                   A. This is Robinson Lake, it's on a  
9                   chain of lakes which is one of the last lakes that --  
10                  in a chain of lakes which feed from Bone Lake. Bone  
11                  Lake is back above this lake, and then there's Bowjack  
12                  Lake and Pickard Lake and Pepper Lake, they all feed  
13                  into this system, and the creek shots at the end of  
14                  this bunch of slides I think show the stream that comes  
15                  from Bone Lake down into this lake.

16                  This is one of the better fishing areas  
17                  in Algoma. There's fairly big lake trout and speckled  
18                  trout in this lake and there are several cottages.

19                  Q. This is photograph No. 2.

20                  A. These are the slides -- this is the  
21                  area as it appeared to me when I went back to look at  
22                  it the day I heard the skidders in there.

23                  Q. And this is October, 1987? .

24                  A. Right. And when I went to  
25                  investigate, this is the location -- this used to be

1 our ski trail here and that is what it looked like when  
2 I arrived. There was water flowing down these skidder  
3 tracks down into the landing area.

4 Q. This is No. 3.

5 A. This is one of the skid trails going  
6 I think up into the bush, the landing area is right  
7 down in here.

8 Q. No. 4.

9 A. More skid trails going up from the  
10 landing.

11 MR. MARTEL: Did you measure the depth of  
12 any of those?

13 THE WITNESS: In some of the ones I just  
14 took recently in the same area it showed vegetation and  
15 leaves in these, but I had my dog in there with me and  
16 my dog is -- he's up above my knee, he's a Siberian  
17 Husky and he was completely down in them. He was at  
18 ground level, ground level was level with his back. So  
19 these are probably two and a half, three feet deep. I  
20 think actually what they are is ditches now.

21 MR. LINDGREN: Q. This is No. 5.

22 A. This was our trail head. This is  
23 where we used to go in. This is the only sign that  
24 kind of indicated that the trail went this way, and  
25 there was skidding in behind here now on to this trail

1 system and up into the bush. This became one of the  
2 major access roads off there and they put skid trails.

3 Q. No. 6.

4 A. Now part of our trail system -- That  
5 was on our old ski trail.

6 Q. This is No. 8.

7 A. Again, part of the trail system.

8 MR. FREIDIN: What was that last photo,  
9 is that 7 or 8?

10 MR. LINDGREN: Oh, sorry, this is No. 7.

11 MR. FREIDIN: Thank you.

12 THE WITNESS: Okay.

13 MR. LINDGREN: Q. This is No. 8.

14 A. This is the trail system also and  
15 this is where you're looking down now at the landing  
16 area and this is where the logs were piled at the foot  
17 of the hill. This is all -- there was an old logging  
18 road down here, so that they used it for a landing so  
19 the logs were hauled down and piled up down here.

20 Next slide.

21 Q. No. 9.

22 A. This is down in the landing area.  
23 What was happening here was like mud was coming down  
24 here and they had the logs piled on the other side of  
25 the road, they effectively made a dam. The logs were

1 just -- mud was building up on these logs and burying  
2 the logs in the mud and the skidders were churning all  
3 this stuff up. And you see here, this is quite a big  
4 piece of machine, they are quite big and they were just  
5 making soup in there with all those machines.

6 Next slide.

7 Q. No. 10.

8 A. This was down on the logging road.  
9 It's actually got a really good base this road, but it  
10 was filled with mud here coming down off the side of  
11 the hill. So they were able to get around -- you can  
12 probably get through this with a four-wheel drive and a  
13 skidder and that they've since, once they took the  
14 major portion of these logs out, a lot of this stuff  
15 was washed off and been cleaned up, so you can drive on  
16 this road now, it's quite hard, it's all rock  
17 underneath that.

18 Q. No. 11.

19 A. The landing area and the logs piled  
20 in mud.

21 Q. No. 12.

22 A. It's more of the landing area  
23 looking up the trail. The ski trail is up here and  
24 these are the logs that are down here.

25 Q. Now, these photographs are that you

1 took in October of 1987?

2 A. Right. This was the first year of  
3 the logging operation.

4 Q. And did logging continue in 1988?

5 A. They went back in in 1988.

6 Q. Did you take photographs in 1988?

7 A. I didn't, no.

8 Q. And I understand that you recently  
9 went back to the same area and took some additional  
10 photographs?

11 A. I went back in '88 and looked at it  
12 and talked to the guy, and I was surprised to see he  
13 was still doing it, like I thought he would have given  
14 up. He gave up I think the first year, he just got to  
15 the point where I don't think he cared to operate any  
16 more.

17 So he come back in the following year and  
18 continued, I guess, to cut and cleaned up somewhat in  
19 order to -- actually he went back into the same  
20 conditions, it was raining again, it was pretty dirty  
21 conditions and I really felt sorry for him. I  
22 really -- you know, I thought, you've got to think long  
23 and hard about this whole situation and this is what --  
24 these guys got to make a buck and I realize that -- and  
25 I have talked to people about, you know, the winter

1       cut. This could have been a winter cut, but it would  
2       have interfered with our trail operations, and I talked  
3       to various loggers about it and I know what happens in  
4       winter cuts and it still would have made quite an  
5       impact on the area and likely if they ever log or when  
6       they do log the section from Wabos over - and that's a  
7       big section, it's a major piece of our trail system and  
8       a very important part of - it's the money maker of our  
9       trail system, we get upwards to a thousand people ski  
10      that on these tours and it helps pay for the grooming  
11      of our trails, so if we have to shut down our skiing  
12      operations while they log that area over there, it's  
13      going to make a real impact on the club.

14                   Q. Now, you have shown us photographs  
15      taken in 1987 which depicted some damage and so forth  
16      in and around the area of the ski trail. What were the  
17      consequences to the Centre?

18                   A. Well, as far as the aesthetics, it  
19      sure ruined the aesthetics, like this once was a  
20      beautiful area which is one of the main reasons why we  
21      put the trail in because of the beauty of that area,  
22      skiing through hardwood forest, a mature hardwood  
23      forest. There's lots of area around Algomas you can  
24      ski through maple, but this was, you know, it looked  
25      like a fairly healthy forest and, granted, there were

1 some trees there that probably should have come out.  
2 It just -- it certainly destroyed the whole aesthetics  
3 of that area.

4 Q. And did the Centre --

5 A. And it impacted -- there's now an  
6 access point to the lake. We went back in last year, I  
7 mean, it's a wide open trail now, and we thought:  
8 Well, if we've got to repair it, we might as well make  
9 it -- there's just a small section in there now that we  
10 can link up and be easy to link up where we can groom  
11 it now with the large machinery. So after some, you  
12 know, a lot of thought on it we decided: Well, we  
13 might as well make it a system now, it's not a back  
14 country trail anymore, it's a touring trail and we can  
15 groom it now.

16 Q. And what type of repairs did the  
17 Centre have to do?

18 A. Well, we brought in a bulldozer and  
19 this access point here is kind of chewed up. This is  
20 down where the junction is, like you come down, hit an  
21 old trail system, an old logging road here and then you  
22 go into the bush. This is where at one point you saw  
23 the ski sign, a skiers symbol.

24 So I decided when we had to doze in  
25 there, we might as well, rather than just make it an

1 abrupt turn here, we tried to put it on this side so we  
2 kind of leveled an area out over here, fixed up the  
3 drainage pattern here and leveled the area over to  
4 where there was a small section between where we could  
5 groom with the big machine up to where we could almost  
6 link into this, so we opened that area, actually  
7 leveled the whole area, put bridges in over natural  
8 runoff spots and generally repaired the thing.

9 It cost I think around five hundred  
10 bucks, plus there was a whole bunch of volunteer club  
11 help out there ditching and raking and fixing things  
12 up.

13 Q. And perhaps we can move on to the  
14 photographs that you took more recently. Were these  
15 taken in the same general area?

16 A. Yeah, this is right at the trail  
17 junction now where you turn to go up what was their  
18 landing area, and it goes up into the now groomed  
19 trail. It's easier to follow, it's an obvious ski  
20 trail now.

21 MR. LINDGREN: And, Madam Chair, this is  
22 the first photograph in the second package of  
23 photographs.

24 Q. And, Mr. O'Connor, when did you take  
25 these photographs?

1                   A. I took these last week.

2                   Q. On October 17th, 1990?

3                   A. Right.

4                   Now this is the Hakon Lien trail now is  
5                   on our trail maps, all our intersections on our trails  
6                   so people don't get lost have numbers on them and are  
7                   mapped at every intersection in the trail link. So any  
8                   place along the trail where there's a possibility where  
9                   they can get lost, we put one of these signs out.

10                  So now it's a pretty obvious trail  
11                  system. Where it used to be a back country trail, it's  
12                  now obvious to snowmobilers and in the summer time  
13                  all-terrain vehicles.

14                  MS. SEABORN: Mr. Lindgren, is this also  
15                  going to be part of Exhibit 1435?

16                  MR. LINDGREN: It's already been made  
17                  part of 1435.

18                  MS. SEABORN: Thank you.

19                  THE WITNESS: This is that same area now,  
20                  the landing area as it looks today.

21                  MR. FREIDIN: I wonder if we can refer to  
22                  the number of the picture as you go through these.

23                  MR. LINDGREN: Yes.

24                  Q. Okay. Mr. O'Connor, this is  
25                  photograph No. 2 in the second package?

1                   A. Right, and this is down from -- it's  
2     on the landing area, they've used an old logging road  
3     to pile the logs and these are logs that were left  
4     behind that were buried in the mud, I guess, and they  
5     just -- I don't know why no mill wouldn't accept them,  
6     I think a lot of them was firewood too.

7                   And I was back three weeks ago in  
8     mid-summer and this was quite a stack of wood here, but  
9     someone has gone up and salvaged some of this, probably  
10    got enough to heat his house for the winter, and  
11    anything that had mud on it I guess he didn't cut,  
12    that's why this stuff was left and there was a whole  
13    row of this stuff down along here.

14                  That's the same log pile looking from the  
15    other side, stuff buried in the mud there.

16                  Q. And we're looking at photograph No.  
17    3. And this is No. 4.

18                  A. This is up the trail a little  
19    farther.

20                  Q. No. 5.

21                  A. Whole logs.

22                  Q. No. 6.

23                  A. Okay. This is the present trail, we  
24    have gone in with a bulldozer and leveled it out. I  
25    must say that the logger operator actually had leveled

1       this out pretty good, but there was water running down  
2       off the hill here creating ditches, so we did a lot  
3       of -- I went in and dug ditches across and fixed it up.

4                   He was supposed to have taken off the  
5       tree tops and a lot of tree tops that were sticking out  
6       in the trail, he had to clean those up, but it's  
7       certainly not the hardwood forest that we used to ski  
8       through and it doesn't have the aesthetics that it used  
9       to have, it kind of opens up and you can see there's a  
10      nice vista, you can see other areas there, but it's  
11      certainly not what it used to be.

12                  Q. This is No. 7.

13                  A. This is again on our trail system.  
14       You can see trees are pushed over here, stumps sticking  
15       up, and already we are getting these hunters that are  
16       coming in on this trail system using all-terrain  
17       vehicles at this time of year. That is the way people  
18       get around now, when you open up an area to logging in  
19       come the three wheelers and the four wheelers,  
20       all-terrain vehicles, and it's just like a natural  
21       progression; once an area is opened up, in come the  
22       all-terrain vehicles.

23                  And it's just, you know, in some cases if  
24       they went in at the right time of year it wouldn't have  
25       much of an impact, but in the fall when they're hunting

1       on a trail like this that's just started to get  
2       restored, it's devastating because they run up and down  
3       these trails, you see an area that has water in them  
4       like this, it will squish the mud out and the water  
5       comes down off the hill and just follows the trail line  
6       down and it eventually washes out the trail again. And  
7       it's worse in late fall when the frost is starting to  
8       get in and they run in them.

9                                  Q. This is No. 8.

10                                 A. This is again further along the trail  
11                                 and trees uprooted and just pushed off to the side.

12                                 Q. No. 9.

13                                 A. These are some of the skid trails.  
14                                 This is what you were looking at before, this is what  
15                                 it looks like now. It still kind of looks nice,  
16                                 there's some grass and stuff in there, but these are  
17                                 deep, like these things are two and a half feet deep in  
18                                 spots and there's water running down constantly. Okay.

19                                 What they have effectively done is made  
20                                 ditches down the side of the mountain and I read the  
21                                 guidelines, there's a thing here -- this is Ministry  
22                                 guidelines in this book, this is what they're supposed  
23                                 to go by in sensitive areas like this on steep slopes  
24                                 and it states in there that they're supposed to be --  
25                                 you know, a lot of these areas shouldn't even have been

1       logged and there it is.

2                   Q. This is No. 10.

3                   A. Again, you see water flowing down  
4       here.

5                   Q. No. 11.

6                   A. It's a skidder track here and a  
7       skidder track here. It's hard to see because the grass  
8       is growing up in here. You will probably catch a lot  
9       of that stuff in an overview, I don't know 20 years it  
10      will restore itself, but there will still always be  
11      water running down.

12                  Q. No. 12.

13                  A. And what that does, and I've talked  
14      to guys at Great Lakes Forest Research, in rainy  
15      seasons and the spring and, you know, when this area  
16      gets rain it's important to keep the water in here, a  
17      matt of leaves is like a sponge and will hold that  
18      water in dry periods so when you have the drought  
19      conditions that we had like three or four years ago  
20      with hot dry summers it's important to have that water  
21      in the water table. Well, that water won't be here any  
22      more.

23                  This was supposed to be a stand  
24      improvement cut and I can't see --I know what they did  
25      as far as taking out the overmature trees and trying to

1       create room for young trees to come up and that, but  
2       talking to guys at Great Lakes Forest Research they did  
3       it all wrong.

4                   Q. This is No. 13.

5                   A. This is more skid trails up the side  
6       of the hill. You can see the roots of this tree here.

7                   Q. No. 14.

8                   A. Here, it's right down into the  
9       bedrock, the boulders here.

10                  Q. No. 15.

11                  A. This water running down both of  
12       these, and this is quite deep, I think there's a slide  
13       in here of my dog -- there he is there.

14                  Q. No. 16.

15                  A. That's level with that dog's back and  
16       that's a big dog.

17                  Q. No. 17.

18                  A. Okay. All this runoff -- this  
19       watershed now goes down into -- this is Bone Creek  
20       before it goes into Robinson Lake, and what effectively  
21       happens now is in the fall when you get a lot of rain,  
22       all that water comes down into this creek, and if you  
23       get -- you know, we haven't had a lot of water this  
24       year, but last year this actually washed out here and  
25       it was because of all the runoff coming off the side of

1       that hill, all these ditches going down into that  
2       creek.

3                   Q. No. 18.

4                   A. This is what happens when we try to  
5       put up signs to indicate to hunters and snowmobilers  
6       that these are ski trails. Rather than put up no  
7       trespassing signs, which I found just don't work, they  
8       are ripped down and shot up, it's better to just put  
9       the skier symbol signs up and they make great target  
10      practice.

11                  Q. No. 19.

12                  A. This is on various points. This is  
13       actually not over by Bone Lake, this is closer to the  
14       lodge. Actually I caught the guy that was shooting  
15       this out, I was down at the lodge and heard this guy  
16       blasting away at the signs.

17                  MR. CASSIDY: I'm sorry, I apologize.

18       Thank you, Mr. Lindgren. Where did you say this was?

19                  THE WITNESS: This was closer to the  
20       lodge, this one here. But, you know, there's a lot of  
21       this. I just went around last week and took sample  
22       shots of various places that are easy access.

23                  MR. CASSIDY: That's No...?

24                  MR. LINDGREN: 19.

25                  MR. CASSIDY: Thank you, Mr. Lindgren.

1                   MR. LINDGREN: Q. This is No. 20.

2                   A. This is one of the -- there is a lot  
3                   of this happens, these blast signs. This is back on  
4                   Walker Lake, somebody just shot it out with a shotgun.  
5                   So it costs us several hundred dollars a year to  
6                   replace these signs.

7                   Q. This is No. 21.

8                   A. Okay. When I was back at Bone Lake  
9                   last week doing these shots, this is a new sign that  
10                  the Ministry put up, and I found it kind of strange  
11                  because this is the lake, when we put the trail system  
12                  in, the Hakon Lien trail in this area, the concern was  
13                  they didn't want more pressure on the lake because it  
14                  was already being over fished.

15                  And last year there was an effort made by  
16                  the Ministry to shut the lake off completely, there was  
17                  a notice in the paper that the lake was going to be  
18                  closed to fishing. And I think it had to go through an  
19                  order-in-council to actually do that, and the  
20                  order-in-council hadn't gone through yet, so a few  
21                  people found out that this really didn't have any clout  
22                  and just kept fishing the lake and no one can really be  
23                  fined for it.

24                  But it was a nice thought and the guys  
25                  that had cabins on the lake and the people that fished

1       it, you know, conscientiously felt that, you know,  
2       maybe it was a good idea to just lay off, so they  
3       didn't fish it. But I think this is an attempt to try  
4       and regulate the number of fish that are taken out, but  
5       it gives the wrong message.

6                  I'm very familiar with putting up signs  
7       to interpret to skiers in how they should ski trails  
8       and how they should get around these ski trails, and if  
9       you give people the wrong message it just confuses  
10      them, and this I find a very confusing sign because  
11      it's a trophy lake and there's no trophy fish in this  
12      lake, they're all little trout now.

13                 And what they should have put up is maybe  
14      this thing here. I guess you can catch more - I still  
15      find this confusing - limit two lake trout and two  
16      brook trout, only one of each species larger than 40  
17      centimetres. Well, no one is going to get a fish that  
18      big in that lake, so I guess they can catch four fish.

19                 Q. And, Mr. O'Connor, is it your opinion  
20      that now that that sign is there --

21                 A. Well, yeah.

22                 Q. And now that the --

23                 A. Well, let me continue on here. This  
24      is at the trail head of this hiking trail, this portage  
25      goes off over to Bone Lake. It's also in very close

1 proximity to the logging road which goes up to our  
2 trail system, and before this the access point in the  
3 winter time - because this lake only got fished in  
4 winter - the trail for the snowmobiles was further down  
5 by Robinson Lake and it was rough country.

6 Now that this sign is here just makes  
7 people aware there's a new trail in here, let's check  
8 it out, and the guys have been back there already  
9 hunting on their four-wheelers and good stuff like that  
10 now that they know there is -- they're not going to  
11 have problems with access now with snowmobiles.

12 MR. LINDGREN: Madam Chair, I apologize,  
13 we have run into I think the normal break time for the  
14 morning. I can advise that this is the end of the  
15 slide show and I have two brief questions for Mr.  
16 O'Connor after the break.

17 MADAM CHAIR: All right. Let's take our  
18 break now then, Mr. Lindgren.

19 MR. LINDGREN: Thank you.

20 MADAM CHAIR: 20 minutes.

21 THE WITNESS: I should say something  
22 about that sign too. It's made of plywood.

23 MR. LINDGREN: You can that after.

24 THE WITNESS: It doesn't matter really,  
25 and it's going to make good eating for porcupines

1 because...

2 ---Recess taken at 10:35 a.m.

3 ---On resuming at 10:55 a.m.

4 MADAM CHAIR: Please be seated.

5 MR. CASSIDY: My apologies, Madam Chair,  
6 we were discussing with Mr. Pascoe the arrangements for  
7 getting the slides from Geraldton. I'm happy to say,  
8 they've arrived.

9 MADAM CHAIR: Aren't they on video, Mr.  
10 Cassidy?

11 MR. CASSIDY: I'm sorry?

12 MADAM CHAIR: Are they on video yet?

13 MR. CASSIDY: I don't know. All I know  
14 is there is a series of slides.

15 MR. LINDGREN: Thank you, Madam Chair. A  
16 couple of brief questions for Mr. O'Connor.

17 Q. First of all, Mr. O'Connor, are you  
18 opposed to logging?

19 A. No I'm not. I think logging should  
20 be done in such a way as -- I would like to see logging  
21 done where it can be an attraction. Like, with ski  
22 trails, I have worked on ski trails long enough to know  
23 that they're going to have to, they can't tie up all  
24 that country, and I used to work with loggers, and  
25 that's what I was hoping would happen with this

1 section. It's a good kind of a test to just see how it  
2 would work out, and even after the results there I  
3 think there's still lots of possibilities.

4 I have been in talking to the Ministry  
5 about it and I know that the next -- in the next few  
6 years the area from Wabos over to the Bone Lake area is  
7 slated for logging, and if it's going to be logged, I  
8 would like to suggest to the Ministry and I've thought  
9 long and hard about it, especially after this exercise,  
10 it would be nice to do it in a way that it could be an  
11 attraction.

12 I mean, very few people have actually  
13 seen a logging operation, most of the skiers, the  
14 tourists that come to ski at Stokely have this negative  
15 idea about logging, and I have seen some good logging  
16 operations and I know what can be done in a sensitive  
17 manner and I would like to see it, I would like to  
18 see -- it would be nice to have an operation where in  
19 very sensitive areas, like on steep slopes like this,  
20 they could actually use horses. You know, that would  
21 be kind of a neat thing to see.

22 Q. And, Mr. O'Connor, my final question  
23 is actually a two-parter. Can you summarize, first of  
24 all, the reasons why you were concerned about the  
25 operations that you have shown the Board; and,

1       secondly, can you make any suggestions as to how those  
2       kinds of situations might be avoided in the future?

3                     A. You know, I thought from the  
4       beginning how this whole thing evolved, I thought with  
5       the input of the club and with the -- I was familiar  
6       with open houses and I have been to several open houses  
7       representing the Wildlands League and so I'm quite  
8       familiar with how these things operate, and I thought  
9       this was a really good exercise for the club to go  
10      through.

11                  I think what happened here was the  
12       Ministry, it seems, has just a lot of these fellows  
13       that -- the foresters are kind of stuck in the office,  
14       you know, there's just an over abundance of paperwork  
15       for them to go through, and I know this is the case,  
16       I've talked to a lot of them about it and I have talked  
17       to fish and wildlife officers about the whole  
18       situation. It's just, we're going through a very  
19       trying time now with timber and kind of re-thinking all  
20       the approaches to things. People are very  
21       environmentally conscious. The open houses are  
22       bringing in more people to, you know, look at Ministry  
23       matters, not enough people because I think the Ministry  
24       is kind of relying on these people at open houses to be  
25       their conscience, and there's not enough people like

1       Mark Robinson, at least I was impressed with that man,  
2       he got quite involved over canoe routes and that, he  
3       gave some pretty interesting evidence and his concerns  
4       but, you know, when people get involved like myself and  
5       Mark and you go to these open houses and you go through  
6       the exercises we have gone through and you still see  
7       these things happening, you can't help but get a little  
8       cynical about the whole thing.

9                   And I think it's time -- they're a great  
10          idea, but it's tying guys up to put on these open  
11          houses. It's just a tremendous exercise of getting  
12          maps and information out to the public and to try to  
13          get it across to the average layman to filter it  
14          through, but people, I think what's happening at these  
15          open houses, are getting people out only concerned  
16          about what's in their backyard, so just the squeaky  
17          wheel gets the oil in these cases.

18                   And there's a shortage of timber in our  
19          area, there really is, and there's companies went out  
20          of business up there, I think Martin went out of  
21          business because there wasn't enough timber around for  
22          him and Lajambe bought over that operation, and all of  
23          a sudden Ministry found more timber for him to operate  
24          another five or ten years or whatever, and where they  
25          found it was on little parcels like -- that was a

1       quarter section that I really don't think had to be  
2       logged, you know, it could have been a stand  
3       improvement cut, but it was going to take a lot more  
4       concern and a lot more care than what those guys were  
5       prepared to do.

6                  You know, once you run into conditions  
7       like they run into - and that guy was losing money I'm  
8       sure - and he had to make ends meet, and it's a dammed  
9       tough business to get into, especially when it's  
10      running marginally. So the Ministry is kind of  
11      providing more timber for these guys but it's coming in  
12      to more and more conflict with various people.

13                 A lot of these people don't know how to  
14      handle these hearings. Like here in Wabos section, I  
15      know there's cottagers over there that have major  
16      concerns about -- but they really don't know how to  
17      deal with the Ministry, it's going to be a whole bloody  
18      exercise for them to go through that. So you have to  
19      weigh the importance of that trail system against the  
20      logging operations.

21                 And trails have never really, I don't  
22      think, never really had the respect and consideration  
23      that they should have with the Ministry, they're still  
24      looked at as kind of a cumbrance thing, like you have  
25      to go through and apply for a thing like that. And

1       it's like they have all the power, you can feed  
2       information into them and try and hope that, you know,  
3       they'd be concerned about these things, and it ends up  
4       like the mess that we ran into, which just kind of  
5       wonder where you should go after that.

6                     But I'm still involved with trails, I  
7       think it's one way of getting people out on the land  
8       and getting them in touch with the land. I believe  
9       it's a good way -- there's quite a few Ministry people  
10      ski our trails, it's the way they can get -- you know,  
11      they get very little time away from the office where  
12      they can get out and see things, you know, get in touch  
13      with the land again, and when they do get out it's  
14      generally just to fly over an area or to take an  
15      all-terrain vehicle in, or they don't get in touch with  
16      the land. If they're not -- the sensitivity is gone,  
17      it's just -- I think if they got back to - this is  
18      being ideal again - I think it's necessary for a lot of  
19      these guys that are making these decisions to actually  
20      get out there and be visible, you know, spend some  
21      time, more time with the people and get in touch with  
22      what's happening out there and get around on skis or  
23      snowshoeing or even canoe it and get a whole different  
24      perspective on it.

25                     MR. LINDGREN: Thank you, Madam Chair.

1 Those are my questions for Mr. O'Connor.

2 MADAM CHAIR: Thank you, Mr. Lindgren,  
3 Mr. O'Connor.

4 Mr. Cassidy, do you have questions for  
5 Mr. O'Connor?

6 MR. CASSIDY: Yes, I do, Madam Chair. I  
7 don't anticipate I will be long, so I'm going to do it  
8 from here.

9 MADAM CHAIR: That is fine.

10 MR. CASSIDY: I would like to commence by  
11 just filing one interrogatory which is Interrogatory  
12 10D from the Ministry of Natural Resources in respect  
13 of Mr. O'Connor's evidence. (handed)

14 MADAM CHAIR: That will be Exhibit 1485.

15 ---EXHIBIT NO. 1485: MNR Interrogatory Question No.  
16 10D to FFT Panel No. 2.

17 CROSS-EXAMINATION BY MR. CASSIDY:

18 Q. I am interested in your last little  
19 bit of discussion there, Mr. O'Connor. We have heard  
20 the evidence about paperwork before in this hearing,  
21 and would you see, in your view, that we should  
22 encourage efforts to generate more paperwork for  
23 foresters such that they get even less time in the  
24 field?

25 A. The exercise we went through with

1       this trail relocation, the logging and all that, you  
2       know, I tried to avoid -- I had to the Ministry because  
3       I kind of felt, you know, this was the thing to do and  
4       I knew it was the thing to do, to try and avoid the  
5       inevitable and it didn't work, but I think -- and it  
6       was an effort to get those guys get out and actually  
7       see what was going on.

8                  I think it would have been -- would have  
9       saved them a lot of paperwork, would have saved this  
10      whole hearing. You know, this is a costly thing for me  
11      and everybody involved here, I mean to call this man  
12      away from the Sault Ste. Marie to come down here, you  
13      know, added up to a lot of paperwork, and I think it  
14      could have been avoided if they spent more time in the  
15      field.

16                  Q. So in terms of better use of a  
17      forester's time, it's better if they're out in the  
18      field than filling out forms in an office?

19                  A. That's right.

20                  Q. I want to come back to the Wabos  
21      cottagers you were just referring to.

22                  A. Mm-hmm.

23                  Q. Stokely, does it have trails in that  
24      area, or is it planning even putting trails in that  
25      area?

1 A. In Wabos?

2 Q. Yes, where the Wabos cottagers.

3 A. Yeah, our trail system goes across  
4 the lake at Wabos.

5 Q. I see. And is there some suggestion  
6 that there's going to be harvesting in that area?

7 A. Right.

8 Q. And is it the cottagers' position, to  
9 your knowledge, that they would prefer winter  
10 harvesting in that area?

11 A. They would prefer no harvesting at  
12 all.

13 Q. Well, if there's going to be  
14 harvesting, would they prefer it in winter as opposed  
15 to summer; do you know what their position is?

16 A. Sure, you know, I've talked to maybe  
17 three cottagers in that area and, of course, they don't  
18 want to see it at all, but I guess if it's going to be  
19 done it should be in the time period that is going to  
20 have the least impact.

21 Q. Which would be winter?

22 A. Which would be winter.

23 Q. And in that situation then you, or  
24 Stokely would want it in the summer, or the non-winter  
25 because of the impact you mentioned earlier on your

1 business; is that correct?

2 A. Either that or ideally --

3 Q. Or not at all?

4 A. Ideally, if they're going to do it,  
5 do it from the standpoint of make it an attraction. I  
6 think it would be a wonderful thing for skiers to  
7 actually see a logging operation done properly. I  
8 would like to see it.

9 Q. Let's get back to the question now.

10 Your preference in that situation would be for summer  
11 harvesting, if there's going to be harvesting, as  
12 opposed to winter?

13 A. In that area I wouldn't want to see  
14 it at all, at all.

15 Q. So you wouldn't even be prepared to  
16 have summer harvesting in that area; is that your  
17 position?

18 A. No, not if it's going to be done with  
19 machines and things. If it can be done in a very  
20 sensitive manner, it's going -- it will take a little  
21 bit of doing, but I think it could be done in the  
22 summer.

23 Q. You would prepared for winter harvest  
24 then in that area under certain conditions?

25 A. Or the winter, if you're going to use

1       horses or something, yes.

2                   Q. ... Have you ever seen a horse logging  
3                   operation?

4                   A. Yes, I have.

5                   Q. So you have observed what it looks  
6                   like after?

7                   A. Mm-hmm.

8                   Q. And was that in the area that we've  
9                   been discussing in your evidence this morning, that  
10                  horse logging took place?

11                  A. It's Algoma area. This fellow in  
12                  Searchmount uses horses and he cuts firewood and he is  
13                  very sensitive about the way he logs, he cuts -- uses  
14                  all the tree, uses the tops, there's no slash left  
15                  behind, it's...

16                  Q. Let me talk to you about aesthetics  
17                  briefly. Is it fair to say that aesthetics; in other  
18                  words, the aesthetic impact caused by an activity is  
19                  really a site-specific judgment; in other words,  
20                  judging the aesthetic impact of an activity really has  
21                  to be related to what the site looked like before and  
22                  what the site looked like after and it's not possible  
23                  to judge what the aesthetics is going to look like by  
24                  comparing what the aesthetic impact was on another  
25                  site? Do you understand that?

1                   A. Not quite.

2                   Q. Right. When you're judging the  
3                   aesthetic impact of a particular activity--

4                   A. Right.

5                   Q. --do you agree with me that you  
6                   really have to look at what the site looked like before  
7                   and the site looked like after?

8                   A. Mm-hmm.

9                   Q. And do you agree with me -- that  
10                  would be a yes?

11                  A. That's right.

12                  Q. And do you agree with me that that is  
13                  the most valid way to judge the aesthetic impact as  
14                  opposed to looking at the aesthetic impact of that  
15                  activity on another site?

16                  A. So you're comparing this with another  
17                  site?

18                  Q. Mm-hmm, and then suggesting that the  
19                  aesthetic impact is going to be similar. It's not  
20                  really a valid -- or a valid statement; is it?

21                  A. Well, it is in a way, you know, when  
22                  you think about the approach that was taken at this  
23                  particular site. You know, I thought the approach  
24                  there was done in an appropriate way, we had gone to  
25                  the Ministry about our concerns and let them know that

1       this was a very sensitive area to us, you know. So  
2       that's the only thing I can kind of weigh by, you know.

3                     Q. I'm talking about the aesthetics  
4       though, not your approach, I'm talking about the  
5       aesthetic impact that you have mentioned several times  
6       in your evidence. And I'm trying to get a handle on  
7       what you're judging it on, and I take it you're judging  
8       it upon the way the site looked before; is that  
9       correct?

10                  A. Yeah. I can look at it from a  
11       long-term standpoint too. Like, I spent a lot of time  
12       with foresters and loggers and, you know, I try to  
13       understand the whole approach, and I have skied  
14       through the Wabos forest I call it, and it's a  
15       beautiful thing to ski through, it's a mature forest  
16       and it's a nice thing to view.

17                  But I also understand that those are old  
18       trees and they're going to start to fall down, they're  
19       already starting to fall down, and it's not so bad, we  
20       can ski around them and over them and that, and it  
21       would be nice to see it not logged at all.

22                  But I can also understand and look at it  
23       from a long-term point of view, and I have talked this  
24       over with foresters that have skied through there and  
25       it would even look nicer if it was logged properly.

1                   Q. This wasn't a clearcut, this was a  
2 selection or shelterwood cut that was done in your  
3 area; is that correct?

4                   A. Right.

5                   Q. The original prescription for this  
6 area was winter harvesting?

7                   A. (nodding affirmatively)

8                   Q. As a result of your discussions with  
9 the Ministry it was changed to summer harvesting;  
10 correct?

11                  A. Yeah.

12                  Q. And you told me a minute ago that  
13 it's winter harvesting that causes less impact than  
14 summer harvesting on sensitive sites; is that correct?

15                  A. Mm-hmm.

16                  Q. Yes?

17                  A. That's right.

18                  Q. And you also indicated in your  
19 evidence that winter harvesting still has an impact on  
20 your operations, and you went on to describe several  
21 financial considerations as a result of tourists being  
22 hampered; is that correct?

23                  A. (nodding affirmatively)

24                  Q. But it would be fair to say that the  
25 natural impacts are less through winter harvesting but

1       you have great financial concerns with winter  
2       harvesting; is that correct?

3                   A. That's correct.

4                   Q. All right. Now, my information,  
5       sir - and I think you confirmed this for me, but help  
6       me out - my information is that the contractor who was  
7       doing this work in fact used the old logging roads that -  
8       you referred to and old landings for his landings in  
9       this operation in 1987; is that correct?

10                  A. That's correct.

11                  Q. All right. So in your witness  
12       statement where you state in Paragraph 7 that you  
13       observed a large landing that had been bulldozed, that  
14       in fact was an existing landing; was it not?

15                  A. No, there was also an area -- he had  
16       to doze it, he had to level it just to get the mud out.

17                  Q. But he did not in fact create a new  
18       landing; did he?

19                  A. No, that logging road was there.

20                  Q. Right. All right. So that we have  
21       an operator who tried, to the extent possible, not to  
22       create new landings and in fact tried to use the  
23       existing one, doing some upgrading for his purposes; is  
24       that the situation we had with respect to landings?

25                  A. Mm-hmm.

1 Q. That's a yes?

2 A. Yes.

3 Q. All right. And you also indicated,  
4 and I think you said that he -- with respect to one of  
5 the photographs, and I don't think it's necessary to  
6 actually go to the photograph and look at the number,  
7 but there was a road there that had some mud on it  
8 which you said you could get through with a vehicle but  
9 the contractor later improved that to clear that mud  
10 off; is that correct?

11 A. Mm-hmm. Yes, yes.

12 Q. Yes. And that I think is the answer  
13 that you indicated in paragraph D of question 10 to  
14 MNR's interrogatory?

15 A. Yes.

16 Q. And that took place as a result of  
17 discussions with yourself and the contractor and MNR,  
18 those improvements; is that correct?

19 A. Partly, and I think it's the only way  
20 he could move around. I think he had to clear all the  
21 mud out of there just to -- and ditch it in order to  
22 operate anymore.

23 Q. So there were a number of factors  
24 including his operational concerns and your concerns  
25 and MNR's concerns that led to that improvement?

1                   A. I don't know if the MNR actually even  
2                   talked to him, I never saw them on the site.

3                   Q. Okay. So it was a combination of  
4                   discussions with you and his concerns that led to that  
5                   improvement of that road; is that correct?

6                   A. I would say yes.

7                   Q. All right. And I take it that this  
8                   area had been logged before by horses, I think you  
9                   indicated that in your evidence; is that correct?

10                  A. No, that area had been logged by I  
11                  think it was machines.

12                  Q. So the photographs that we're looking  
13                  at were of the forest that had been logged with  
14                  machines before; is that correct, the photographs that  
15                  you took?

16                  A. The photographs that I took were in  
17                  an area, I don't think, that had ever been cut, it was  
18                  a quarter of a section I think.

19                  Q. Okay. Well, I'm confused because I  
20                  thought I heard you say that there had been horse  
21                  logging in the area.

22                  A. There is horse logging on our trail  
23                  system.   •

24                  Q. I see.

25                  A. Our trail system, which is closer to

1       the lodge. The original roads in that area, a lot of  
2       them were, and I wouldn't even doubt that, you know,  
3       some in the area right there had horses in it. So they  
4       had more or less opened up the country.

5           Q. Yeah. I don't want to date you, but  
6       I take it you weren't around when that was going on?

7           A. No, that's like turn of the century,  
8       I guess, that's when there was white pine in there.

9           Q. And you weren't in a position to see  
10      what those sites looked like the first five years after  
11      the horse logging since you weren't there, I take it;  
12      is that correct?

13           A. I've seen pictures of it.

14           Q. You've seen pictures of it. So any  
15      knowledge you have would have came from observations of  
16      other sites or photographs or discussions with people,  
17      old timers shall we say?

18           A. Correct.

19           Q. Nothing directly on your own; is that  
20      correct?

21           A. No, I have never actually sign guys  
22      using horses back there.

23           Q. Okay. And you also indicated that in  
24      fact some of that forest had been logged with machines  
25      previously?

1                   A. Using the access routes of the former  
2 horse-drawn methods.

3                   Q. Okay. Are you aware that it was the  
4 preference of the contractor not to harvest in the  
5 winter, but rather harvest -- I'm sorry, not harvest in  
6 the summer but harvest in the winter?

7                   A. I don't think he -- he never voiced  
8 any preference.

9                   Q. To you?

10                  A. No.

11                  Q. Okay, that's fine.

12                  A. But the Ministry, you know, had  
13 decided -- the Ministry made the decision.

14                  Q. All right, yes. I'm not talking  
15 about decisions, sir, I'm talking about preferences.

16                  A. His preference?

17                  Q. And you are not in a position to say  
18 because he never told you?

19                  A. Right.

20                  Q. Okay.

21                  A. Because he continued to log other  
22 areas around there in the fall. I never seen him  
23 logging in the winter.

24                  Q. Okay.

25                  MADAM CHAIR: Excuse me, Mr. O'Connor,

1 why did he choose to log in September; wouldn't it have  
2 been drier in May or June or July?

3 THE WITNESS: In the summer. I think so,  
4 yeah, they were dry summers.

5 MADAM CHAIR: But in both years he logged  
6 in September when you know that it's raining in that  
7 area?

8 THE WITNESS: Yeah.

9 MR. CASSIDY: Q. Mr. O'Connor, are you  
10 aware that there are often restrictions on summer  
11 harvesting and there are often operational difficulties  
12 just as great with summer harvesting as there are with  
13 fall or winter harvesting?

14 A. Restrictions about fires in the bush?

15 Q. Among other things.

16 A. I don't see that that area, it would  
17 have been better to log it in the summer, I think.

18 Q. You're not an expert in harvest  
19 operations; are you?

20 A. No, I'm not. I've seen it, I've seen  
21 guys logging in the summer and I know it could have  
22 been done in that area.

23 MR. CASSIDY: If you can just bear with  
24 me, Madam Chair.

25 Q. Did you ever ask Mr. Calder the

1 contractor to bulldoze a trail for you and he in fact  
2 suggested that you use a backhoe instead to minimize  
3 site damage?

4 A. He was using -- he used the road and  
5 access, the trail access that we had in to access where  
6 the timber was going to be cut and he was going to  
7 bulldoze that anyway, so we just agreed where the  
8 alignment should go.

9 And I did -- the cut that went -- his cut  
10 line was ribboned off and we asked if he was going to  
11 go in there and realign that trail to make sure when he  
12 was finished that the trail would be levelled and to  
13 the point where we could use it as a route trail.

14 Q. I'm talking about choice of equipment  
15 here, that was my question. Do you recall that choice  
16 being discussed, bulldozer versus backhoe?

17 A. No, I think he was talking about  
18 ditching.

19 Q. Do you recall him suggesting that you  
20 use a backhoe method?

21 A. No.

22 Q. All right. I just have one final  
23 series of questions. That photograph of your ski signs  
24 being shot up, I think it was photograph 19.

25 A. Mm-hmm.

1 MR. CASSIDY: Was it not, Mr. Lindgren?

2 MR. LINDGREN: One moment, Madam Chair.

3 It was photographs 18, 19 and 20.

4 MR. CASSIDY: Q. The one I glanced at  
5 was 19, but those are trails that you had in existence?

6 A. One of those signs --

7 Q. That are still in existence?

8 A. Yes. One of those signs was on the  
9 Hakon Lien trail within the vicinity of the operation.

10 MR. CASSIDY: Okay. I have no further  
11 questions.

12 MADAM CHAIR: Thank you, Mr. Cassidy.

13 Ms. Seaborn, do you have any questions?

14 MS. SEABORN: No questions, Madam Chair.

15 MADAM CHAIR: Thank you.

16 Mr. Freidin, do you have any questions?

17 MR. FREIDIN: Just a few.

18 CROSS-EXAMINATION BY MR. FREIDIN:

19 Q. Mr. O'Connor, let's see if we can set  
20 a record for my shortest cross-examination after all  
21 these years.

22 Could you turn to Exhibit 1483, those are  
23 the interrogatories.

24 A. Come again, please.

25 Q. 1483. They are a pack of documents

1 which were filed by your counsel and I would ask you to  
2 turn to the Interrogatory No. 5, the one that has the  
3 letter of January 11th, 1985 from Mr. Sellers to  
4 yourself.

5 A. Okay.

6 Q. Do you have that one there?

7 A. Yes.

8 Q. I just was somewhat confused  
9 regarding the discussions that took place about access  
10 to Bone Lake. As I read the letter it appears that the  
11 relocation of your trail because of a concern of access  
12 to Bone Lake was something which was requested by the  
13 Ministry.

14 Was it the Ministry that was concerned  
15 about the access and they discussed it with you and you  
16 came to some sort of arrangement?

17 A. Yes.

18 Q. Is that right?

19 A. Yes, but I brought it to their  
20 attention. Like I had talked -- I had talked to the  
21 cottage or cabin owners on the three places on Bone  
22 Lake and I brought that to the Ministry's attention and  
23 I talked it over with the fisheries biologist and, you  
24 know, it was a concern of mine, that if we opened up  
25 this trail that would mean another access point to the

1           lake.

2                   Q. And it was moved as a result of that  
3 discussion?

4                   A. Right.

5                   Q. Okay.

6                   A. I had already flagged the trail, I  
7 knew where I wanted to have the trail and they agreed  
8 to the trail indication.

9                   Q. The letter also indicates that  
10 someone was concerned about the potential effect on  
11 another land use permit holder if in fact the trail  
12 wasn't relocated. Is that something else that you  
13 brought to the attention of the Ministry, or was that  
14 something that they raised on their own?

15                  A. I certainly talked it over with --  
16 Mr. Rickman had a cabin there, I think this is what  
17 you're referring to.

18                  Q. I don't know, this letter doesn't  
19 say.

20                  A. They were worried about vandalism  
21 because the snowmobilers tend to -- if they broke down  
22 they would break in to the cabin and it's happened  
23 sometimes.

24                  Q. Okay. And you made a comment just in  
25 response to Mr. Cassidy to the fact that you didn't

1 even know whether the Ministry ever talked to Mr.  
2 Calder, this is when you were having the discussion  
3 about the repair work that was done on the trail. When  
4 I read paragraph 11 of your witness statement, in  
5 paragraph 11 you say that, after you complained to the  
6 local conservation officers, MNR conducted an on-site  
7 inspection and required the operator to repair the  
8 access road.

9 Now, when you say that, are you referring  
10 to MNR requiring the operator to repair the access  
11 road, is that in fact part of the access road which was  
12 also the trail, the ski trail?

13 A. No. I talked to the one person I was  
14 able to get ahold of and get some feedback on was Jack  
15 Hobson who's the conservation officer in the area.

16 Q. Right.

17 A. And he had agreed that it was a mess  
18 and something should be done about it and he would look  
19 into.

20 Q. And it was after you had your  
21 conversation with Mr. Hobson from the Ministry of  
22 Natural Resources that the operator was required to  
23 repair the access road, and that's what it says in your  
24 witness statement.

25 A. I don't -- I don't know if the

1 Ministry required him to do that. If I said that, I'm  
2 not sure that that was the way...

3 Q. All right. Let's just turn to your  
4 witness statement because if it's not clear then we  
5 should change it and make sure we understand it.

6 A. Okay sure.

7 Q. Do you have that in front of you.

8 Paragraph 11 on page 4 of your witness statement, right  
9 at the very bottom, three lines up it says:

10 "After we complained to the local  
11 conservation officers...", I take it that  
12 is Mr. Hobson,

13 "...the MNR finally conducted an on-site  
14 inspection and required the operator to  
15 repair the access road."

16 Now, are you saying there that that  
17 should not be interpreted as the Ministry requiring  
18 that to occur?

19 A. No, because I don't know if that  
20 actually happened.

21 Q. All right. So you don't know whether  
22 that happened, but can we agree that the operator was  
23 required to repair the access road by somebody?

24 A. I had talked to him about it.

25 Q. All right.

1                   A. So it's probably the way, it was  
2                   interpreted wrong.

3                   Q. Okay.

4                   A. And I probably should have caught  
5                   this. Like, I had talked to him about my concerns on  
6                   it.

7                   Q. All right. Well, that's fine.  
8                   I guess the important thing is that the work was done.

9                   MR. FREIDIN: And I have no further  
10                  questions.

11                  MADAM CHAIR: Thank you very much, Mr.  
12                  Freidin.

13                  Mr. Lindgren, do you have any more  
14                  questions for Mr. O'Connor?

15                  MR. LINDGREN: No, I do not, Madam Chair.

16                  MADAM CHAIR: Thank you very much, Mr.  
17                  O'Connor, for coming to Toronto and presenting your  
18                  evidence to the Board, we appreciate it.

19                  MR. FREIDIN: Madam Chair, that was five  
20                  minutes and 18 seconds.

21                  MADAM CHAIR: I'll make a note of that,  
22                  Mr. Freidin. Maybe we should set this as the limit on  
23                  cross-examination. You've broken a new frontier here.

24                  MR. HUFF: It's a precedent.

25                  MR. FREIDIN: No one has ever used my

1           cross examination as a precedent.

2           MADAM CHAIR: We could set it as a  
3         guideline or a standard or something of parties  
4         cross-examining.

5           All right. The Board will adjourn now  
6         and we will start on Monday, at ten o'clock on Monday.  
7         And which witness will we be hearing from?

8           MR. LINDGREN: This is Mr. John Kapel,  
9         and his witness statement can be found at Tab 3 of  
10       Exhibit 1433A.

11          MADAM CHAIR: And you expect that Mr.  
12       Kapel will take Monday?

13          MR. LINDGREN: That's correct.

14          MADAM CHAIR: And on Tuesday...?

15          MR. LINDGREN: Is Mr. George Nixon which  
16       is Document No. 4.

17          MADAM CHAIR: Right. And you expect Mr.  
18       Nixon to go into Wednesday?

19          MR. LINDGREN: That's a possibility. Mr.  
20       Marek will commence at some point on Wednesday.

21          MADAM CHAIR: Ms. Swenarchuk is ready to  
22       go?

23          MR. LINDGREN: That's right.

24          MADAM CHAIR: Okay, thank you.

25

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3       ---Whereupon the hearing adjourned at 11:30 a.m., to be  
4                  reconvened on Monday, October 29th, 1990, commencing  
5                  at 10:00 a.m.

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25       BD [c. copyright 1985]





